

ESTTA Tracking number: **ESTTA476217**

Filing date: **06/05/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Baba Slings Pty Ltd
Granted to Date of previous extension	06/09/2012
Address	486 Hunchy Rd Hunchy, 4555 AUSTRALIA
Attorney information	Mark Borghese Borghese Legal, Ltd. 10161 Park Run Drive, Suite 150 Las Vegas, NV 89145 UNITED STATES mark@borgheselegal.com Phone:(702) 382-0200

### Applicant Information

Application No	79103197	Publication date	04/10/2012
Opposition Filing Date	06/05/2012	Opposition Period Ends	06/09/2012
International Registration No.	1088031	International Registration Date	07/07/2011
Applicant	BabaSlings Limited 1 Amber House, 22b St John's Road Hove, BN3 2EZ UNITED KINGDOM		

### Goods/Services Affected by Opposition


Class 018.

All goods and services in the class are opposed, namely: Bags, namely, all purpose carrying bags, baby carrying bags, and bags for carrying babies' accessories; trunks and traveling bags; carriers for babies and children worn on the body; slings for carrying babies and children; back frames for carrying babies and children; sling bags for carrying babies and children; baby changing bags in the nature of bags for carrying babies' accessories; nappy bags in the nature of diaper bags; baby care bags in the nature of bags for carrying babies' accessories sold empty; travel bags; backpacks; suitcases; reusable shopping bags; reusable shopping bags in frames on wheels; umbrellas; parasols; structural parts and fittings for all the aforementioned goods

### Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

## Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85633700	Application Date	05/23/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BABA SLINGS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1999/00/00 First Use In Commerce: 2002/10/00 (Based on Use in Commerce) Baby carriers worn on the body; Baby carrying bags; Bags for carrying babies' accessories; Sling bags; Sling bags for carrying infants; Slings for carrying infants(Based on 44(e)) Baby carriers worn on the body; Baby carrying bags; Bags for carrying babies' accessories; Sling bags; Sling bags for carrying infants; Slings for carrying infants		

Attachments	85633700#TMSN.jpeg ( 1 page )( bytes ) 2012-06-05-Opposition.pdf ( 4 pages )(153340 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/MB/
Name	Mark Borghese
Date	06/05/2012

**THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In the Matter of Trademark Application No.: 79/103197**

**Mark: theBabaSling**

**Filed on: September 6, 2011**

Baba Slings Pty Ltd,	)	
	)	
Opposer,	)	Opposition No:
	)	
vs.	)	
	)	
BabaSlings Limited,	)	
	)	
Applicant.	)	
_____	)	

**NOTICE OF OPPOSITION**

Opposer, Baba Slings Pty Ltd, an Australian proprietary limited company (“Opposer”) will be damaged by registration of the design mark theBabaSling set forth in Application Serial No. 79/103197 (the “Application”), owned by Applicant BabaSlings Limited, a United Kingdom private limited company (“Applicant”). Opposer timely filed an extension of time to oppose and now states the following grounds for its opposition to the Application:

1. Opposer is the company behind the popular sling baby carriers sold under the mark BABA SLINGS and variations thereof. Opposer’s products are sold in numerous countries around the world including the United States.

2. Opposer is the owner of international trademark registrations and applications in twenty six (26) countries for the mark BABA SLINGS and variations thereof (“BABA SLINGS Marks”), including an application for the word mark BABA SLINGS pending before the United States Trademark Office, Application No. 85/633700 for goods in Class 018, namely, “Baby carriers worn on the body; Baby carrying bags; Bags for carrying babies' accessories; Sling bags;

Sling bags for carrying infants; Slings for carrying infants.”

3. Applicant is a rouge licensee of Opposer which previously had authority to sell Opposer’s baby carrier products in Europe under the derivative design mark theBabaSling appearing in the Application.

4. To the extent Applicant still claims a license from Opposer, such license has never included the right to sell any products in the United States under the BABA SLINGS mark or under the derivative design mark theBabaSling.

5. Moreover, Applicant has no rights in the BABA SLINGS mark itself and is at best a geographically limited licensee of the derivative design mark theBabaSling appearing in the Application.

6. Upon information and belief, Applicant has never sold any products in the United States under the design mark theBabaSling.

7. In contrast, Opposer has nearly ten (10) years of strong common law rights in the United States with product sales using the BABA SLINGS Marks beginning at least as early as October 2002 in United States commerce.

8. By virtue of Opposer’s continuous and extensive use and advertising in connection with Opposer’s goods, the BABA SLINGS Marks are widely and favorable known by the relevant public in the United States and are symbols of the substantial goodwill and recognition established by Opposer for its BABA SLINGS Marks.

9. On September 6, 2011, Applicant filed an application to register theBabaSlings mark for goods in Class 018 including, “baby carrying bags, and bags for carrying babies' accessories; carriers for babies and children worn on the body; slings for carrying babies and children; sling bags for carrying babies and children” (“Applicant’s Mark”).

10. Applicant’s Mark is highly similar in sight, sound, appearance, and commercial

impression to Opposer's BABA SLINGS Marks.

11. Applicant had actual knowledge of Opposer's BABA SLINGS Marks prior to filing the Application.

12. Opposer will be damaged by registration of Applicant's Mark, because the mark so resembles Opposer's BABA SLINGS Marks as to be likely to cause confusion, mistake, and/or deception, particularly because the parties' goods are identical or nearly identical.


13. Persons familiar with Opposer's BABA SLINGS Marks and the goods offered by Opposer under its BABA SLINGS Marks would be likely to believe erroneously that Applicant's goods are the goods of Opposer or are authorized, endorsed, sponsored, or licensed by Opposer for sale in the United States.

14. Thus, registration of Applicant's Mark on the Principal Register would be inconsistent with Opposer's prior rights in its BABA SLINGS Marks and in violation of Section 2(a) and Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(a) and 15 U.S.C. § 1052(d).

FOR THESE REASONS, Opposer requests that the Board sustain this proceeding in Opposer's favor by refusing registration of theBabaSlings mark underlying Application Serial No. 79/103197. Please direct all notices, pleadings, and correspondence in this matter to the undersigned counsel for Opposer Baba Slings Pty Ltd.

Respectfully submitted,

Dated: June 5, 2012

By:   
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*Attorney for Opposer Baba Slings Pty Ltd*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** has been served on Michael M. Ballard, the attorney of record for the Applicant, by mailing said copy on June 5, 2012, via First Class Mail, postage prepaid, to the attorney's correspondence address of record:

Michael M. Ballard  
**Workman Nydegger**  
1000 Eagle Gate Tower  
60 East South Temple  
Salt Lake City UT 84111

  
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Mark Borghese